

**THIS DISPOSITION IS
NOT CITABLE AS PRECEDENT
OF THE TTAB**

Mailed 11/30/2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Bonne Bell, Inc.

v.

Smack, Inc.

Opposition No. 121069
to application Serial No. 75609626
filed on December 21, 1998

Request for Reconsideration

Michael A. Marrero of Ulmer & Berne LLP for Bonne Bell,
Inc.

Lowell Anderson, Esq. for Smack, Inc.

Before Hanak, Hairston and Walters, Administrative
Trademark Judges.

Opinion by Hanak, Administrative Trademark Judge:

On February 17, 2004 Bonne Belle, Inc. (opposer) filed
a timely Request for Reconsideration of this Board's
decision of February 3, 2004 dismissing the opposition "for
opposer's failure to properly make of record any evidence
in support of its case." (Opinion page 4). Smack, Inc.

(applicant) filed no paper in opposition to opposer's Request for Reconsideration.

At the outset, this Board wishes to apologize for the very significant delay in ruling upon opposer's Request for Reconsideration. Opposer's Request for Reconsideration is slightly more than one page in length. Attached to the Request for Reconsideration are two copies of opposer's Registration No. 1,852,840 for the mark SMACKERS for, among other goods, cologne.

As pointed out in this Board's decision of February 3, 2004, opposer had failed during the prosecution of this opposition proceeding to properly make of record any evidence, including in particular a copy of its Registration No. 1,852,840. Accordingly, as previously noted, the opposition was "dismissed for opposer's failure to properly make of record any evidence in support of its case." (Opinion page 4). Obviously, opposer cannot in a Request for Reconsideration make of record evidence that was not previously properly made of record.

Decision: Opposer's Request for Reconsideration is denied.